IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

CRIMINAL REVISION APPLICATION No. 315 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI Sd/-

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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MANISH JITUBHAI PATEL HAVING ADDRESS AS - Applicant(s)
Versus
THE STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :
MR RJ GOSWAMI for Applicant(s) : 1,
MR HL JANI, APP for Respondent(s) : 1,
MR PARTHIV B SHAH for Respondent(s) : 2,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 15/11/2006

ORAL JUDGMENT

1. The present Criminal Revision Application is filed being aggrieved by judgment and order dated 21.03.2006, whereby the learned Presiding Officer, Fast Track Court No. 11, Vadodara who was pleased to dismiss the appeal and confirm the judgment and order

passed by the learned Judicial Magistrate First Class, Vadodara in Criminal Case No 5499 of 2002, whereby the present applicant-original accused is convicted for an offence under Section 138 of the Negotiable Instruments Act and is awarded six months' simple imprisonment and fine of Rs. 5,000/-, in default, further three months' simple imprisonment. Under Section 357(3) of the Code of Criminal Procedure, the applicant is directed to pay Rs. 50,000/-towards compensation to the complainant.

2. Mr. R.J. Goswami, learned advocate for the applicant, states that, as stated in compromise deed dated 26.09.2006 that the last and final installment of Rs. 25,000/- will be paid on 10.11.2006, is paid.

Mr. Parthiv B. Shah, learned advocate for the respondent No.2, on instructions of the respondent-original complainant, who is present before the Court, affirms the statement made by learned advocate Mr. Goswami.

3. The learned advocate submitted that, the matter between the parties is compromised in terms of the compromise deed produced on record dated 26.09.2006.

4. The learned advocate Goswami submitted that, in view of the fact that the present applicant has already paid the amount and in view of the fact that the matter is compromised between the parties, the offence may be compounded.

5. Mr. Parthiv Shah, the learned advocate appearing for respondent No.2, states that he is instructed by his client to state that the complainant has no objection if the offence is compounded.

Mr. Goswami requested that let the Criminal Revision Application be allowed and the judgment and orders of the Courts below be quashed and set aside.

6. In view of the submissions made by the learned advocates for the parties and the fact that the parties are jointly submitting that the matter is compromised, no useful purpose would be served in proceeding with the matter further. This Court in the matter of **Nitinbhai Mathurdas Thakkar & others Vs. State of Gujarat** and another, reported in 2005 (3) G.L.R. 2377, has quashed the complaint when there was a compromise. The Hon'ble the Apex Court in the matter of **State of Karnataka Vs. L. Muniswamy & others**, reported in A.I.R. 1977 SC 1489 has observed in para 7 as under:

> "7. xxx xxx
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> In the exercise of this wholesome power, the High Court is entitled to quash a proceeding if it comes to the conclusion that allowing the proceeding to continue would be an abuse of the process of the Court or that the ends of justice require that the proceeding ought to be quashed. The saving of the High

> Court's inherent powers, both in civil and criminal matters is designed to achieve a salutary public purpose which is that a court proceeding ought not to be permitted to degenerate into a weapon of harassment or persecution. .. ..“

7. In view of the above, the Revision Application is allowed. Order dated 12.09.2005 passed by the Judicial Magistrate First Class, Vadodara in Criminal Case No. 5499 of 2002 and judgment and order dated 21.3.2006 passed by the learned Presiding Officer, Fast Track Court No. 11, Vadodara in Criminal Appeal No. 20 of 2005 are quashed and set aside. Rule is made absolute.

8. The amount of fine paid by the applicant is ordered to be refunded to the present applicant. Direct service is permitted.

Sd/-

(RAVI R. TRIPATHI, J.)

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